



**STATE OF MISSOURI
OFFICE OF THE SECRETARY OF STATE
FISCAL OFFICE
INVITATION FOR BID**

**IFB NO.: SOS2313RM00000007
TITLE: Microfilm Repair/Brown Toning
ISSUE DATE: March 11, 2013**

**BUYER: John Stegmann
PHONE NO.: (573) 751-3964
FAX: (573) 522-6289
E-MAIL: john.stegmann@sos.mo.gov**

RETURN BID RESPONSE NO LATER THAN: March 25, 2013 AT 2:00 PM

**RETURN BID RESPONSE TO: PROCUREMENT OFFICER
OFFICE OF THE SECRETARY OF STATE
600 WEST MAIN STREET, ROOM 341
JEFFERSON CITY MO 65102**

CONTRACT PERIOD: One Year after Date of Award

DELIVER SUPPLIES/SERVICES FOB DESTINATION TO THE FOLLOWING ADDRESS:

Missouri Office of the Secretary of State
600 W. Main Street
Jefferson City, MO 65101

The bidder hereby declares understanding, agreement and certification of compliance to provide the items and/or services, at the prices quoted, in accordance with all requirements and specifications contained herein and the Terms and Conditions Request For Quotation. The bidder further agrees that the language of this document shall govern in the event of a conflict with his/her bid. The bidder further agrees that upon receipt of an authorized purchase order from the Office of the Secretary of State or when this document is countersigned by an authorized official of the Office of the Secretary of State, a binding contract shall exist between the bidder and the Office of the Secretary of State.

MUST BE SIGNED TO BE VALID

| | | |
|-----------------------|---------|-------------------------|
| AUTHORIZED SIGNATURE | | DATE |
| PRINTED NAME | | TITLE |
| COMPANY NAME | | |
| MAILING ADDRESS | | |
| CITY, STATE, ZIP | | |
| VENDOR NO. (IF KNOWN) | | FEDERAL EMPLOYER ID NO. |
| PHONE NO. | FAX NO. | E-MAIL ADDRESS |

NOTICE OF AWARD (STATE USE ONLY)

| | | |
|--|------|-------------------------------------|
| ACCEPTED BY THE OFFICE OF THE SECRETARY OF STATE AS FOLLOWS: | | |
| CONTRACT NO. | | CONTRACT PERIOD |
| BUYER/PROCUREMENT OFFICER | DATE | EXECUTIVE DEPUTY SECRETARY OF STATE |

1. INTRODUCTION

1.1 Purpose:

1.1.1 This document constitutes an invitation for bids from prospective bidders to establish a contract(s) for the purchase of repair services (aka brown toning) for archival microfilm with the requirements and provisions stated herein.

1.1.2 The MSOS does not guarantee purchase amounts or quantities to be acquired under the resulting contract(s). The Records Management/Archives Division of the Missouri Secretary of State's Office has archival microfilm with some defective images showing evidence of redox and vinegar syndrome. At this time, MSOS Records Management anticipates an initial order of repair/brown toning of the following:
 16mm x 100' thick film-42 reels
 16mm x 215' thin film-45 reels
 35mm x 100' film-100 reels

1.1.3 Bidders must direct all of their questions or comments regarding the IFB, the evaluation, etc. to the buyer of record indicated on the cover page of this IFB. Bidders may not contact any other state employee regarding any of these matters during the solicitation and evaluation process. Inappropriate contacts are grounds for suspension and/or exclusion from specific procurements.

2. CONTRACTUAL REQUIREMENTS

2.1 Contract Period:

2.1.1 The original contract period shall be for one year after the date of the award. The contract shall not bind, nor purport to bind, the MSOS for any contractual commitment in excess of the original contract period. The MSOS shall have the right, at its sole option, to renew the contract for two (2) additional one-year periods, or any portion thereof. In the event the MSOS exercises such right, all terms and conditions, requirements and specifications of the contract shall remain the same and apply during the renewal period, pursuant to applicable options clauses of this document.

2.2 Price:

2.2.1 All prices shall be indicated on the Pricing Page. The MSOS shall not pay nor be liable for any other additional costs including but not limited to taxes, shipping charges, insurance, interest, penalties, termination payments, attorney fees, liquidated damages, etc.

2.3 Payments:

The contractor shall understand and agree the MSOS reserves the right to make contract payments to the contractor through electronic funds transfer (EFT). Therefore, prior to any payments becoming due under the contract, the contractor must return a completed state Vendor ACH/EFT Application which is downloadable from the following website: <http://www.oe.mo.gov/purch/vendorinfo/vendorach.pdf>. Each contractor invoice must contain a unique invoice number. The invoice number will be listed on the state's EFT addendum records to enable the contractor to properly apply MSOS payments to invoices. The contract must comply with all other invoicing requirements stated in the IFB.

2.4 Inventions, Patents, and Copyrights:

- 2.4.1 The contractor shall report to the MSOS promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of the contract of which the contractor has knowledge.
- 2.4.2 The MSOS agrees that the contractor has the right to defend or at its option to settle, and the contractor agrees to defend at its own expense or at its option to settle, any claim, suit or proceeding brought against the MSOS on the issue of infringement of any United States patent or copyright by any product, or any part thereof, supplied by the contractor to the MSOS under this agreement. The contractor agrees to pay, subject to the limitations hereinafter set forth in this paragraph, any final judgment entered against the state on such issue in any suit or proceeding defended by the contractor. The state agrees that the contractor at its sole option shall be relieved of the foregoing obligations unless the MSOS notifies the contractor promptly in writing of any such claim, suit, or proceeding, and at the contractor's expense, gives the contractor proper and full information needed to settle and/or to defend any such claim, suit, or proceeding. If the product, or any part thereof, furnished by the contractor to the MSOS becomes, or in the opinion of the contractor may become, the subject of any claim, suit, or proceeding for infringement of any United States patent or copyright, or in the event of any adjudication that such product or part infringes any United States patent or copyright, or if the use, lease, or sale of such product or part is enjoined, the contractor may, at its option and its expense: (1) procure for the MSOS the right under such patent or copyright to use, lease, or sell as appropriate such product or part, or (2) replace such product or part with other product or part suitable to the MSOS, or (3) suitably modify such product or part, or (4) discontinue the use of such product or part and refund the aggregated payments and transportation costs paid therefore by the state, less a reasonable sum for use and damage. The contractor shall have no liability for any infringement based upon: (1) the combination of such product or part with any other product or part not furnished to the state by the contractor, or (2) the modification of such product or part unless such modification was made by the contractor, or (3) the use of such product or part in manner for which it was not designed.
- 2.4.3 The contractor shall not be liable for any cost, expense, or compromise, incurred or made by the state in conjunction with any issue of infringement without the contractor's prior written authorization. The foregoing defines the entire warranty by the contractor and the

exclusive remedy of the state with respect to any alleged patent infringement by such product or part.

3. PERFORMANCE REQUIREMENTS

3.1 Microfilm repair/brown toning:

- 3.1.1 The microfilm in question has redox and vinegar syndrome. Film with redox and vinegar syndrome requires brown toning to halt the deterioration of the images on the film. It will not restore the missing image, but will preserve what remains. Brown toning changes the processed silver film to silver sulfide which is much more resistant to humidity and oxidants. Once brown toned, film will be copied, installed on a new microfilm reel and microfilm storage box.
- 3.1.2 All supplies must be new. Used, reconditioned, or remanufactured supplies are NOT acceptable.
- 3.1.3 The awarded contractor must: Meet or exceed Federal standards, meet or exceed ANSI and AIIM standards, and must be a Kodak or Fuji Certified Lab.
- 3.1.4 All items must be packaged with the manufacturer and/or brand name clearly identified on the outside of the package as to its content. Production coding information should be included if it is a normal practice of the manufacturer. Contractor must replace existing label on microfilm box that contains microfilm reel information, with like label on new microfilm box.
- 3.1.5 Contractor must send newly created microfilm to Secretary of State to be checked for quality assurance (QA). If product passes QA, Secretary of State will contact contractor of such. The contractor will then return original microfilm to Secretary of State. If product does not pass QA, Secretary of State will return product to contractor, along with reason(s) for failing. Contractor will then forward repaired microfilm for QA again.
- 3.1.6 The contractor shall be responsible for all shipping costs for returning completed/repaired film.
- 3.1.7 The contractor shall not substitute any item(s) that has been awarded to the contractor without the prior written approval of the MSOS.
The MSOS reserves the right to allow the contractor to substitute products offered by the contractor on all unshipped and future orders if the item(s) are equal to or greater than the contract item(s) and if the prices are equal to or less than the contract item(s).
In the event of manufacturer discontinuation, the contractor shall substitute item(s) with equal or better product/service for equal or less cost than the discontinued product.
The MSOS shall be the final authority as to acceptability of any substitution and reserves the right to accept or reject such requests.

4.0 BID EVALUATION/CONTRACT AWARD

- 4.1 Evaluative Criteria: After determining that a bid satisfies the mandatory requirements, the evaluator(s) shall use both objective and subjective judgment in conducting a comparative assessment of the bids in accordance with the evaluation criteria state below:

| | |
|-----------------------------|-----|
| Cost..... | 80% |
| Technical Capabilities..... | 20% |

- 4.1.1 Cost Evaluation: The evaluation shall cover the original contract period plus renewal periods. The cost evaluation shall include all mandatory requirements. For the purposes of the cost evaluation, a quantity of one reel shall be used for the initial contract period and in each succeeding renewal periods.
- 4.1.2 Cost: All prices stated herein must be firm, fixed throughout the contract period stated on page 1. All prices must include shipping costs. All orders must be F.O.B. Destination. F.O.B. Shipping Point is not acceptable. The State of Missouri, Office of the Secretary of State does not guarantee quantities.
- 4.1.3 Renewal Option: The bidder must complete the Renewal Option Page for price changes applicable to the renewal periods.

1) On the Renewal Option Page, it is required of the bidder to indicate the maximum allowable percentage of price increase or guaranteed minimum percentage of price decrease applicable to the renewal option years. **If a percentage is NOT quoted** (i.e. left blank), **the State shall have the right to execute the option at the SAME PRICE(S) quoted for the original contract period.**

5.0 BIDDER'S INSTRUCTIONS AND REQUIREMENTS

5.1 Preparation and Submission of Bids:

Organization: In order to provide optimal readability of their bid by the evaluators, bidders are strongly encouraged to organize their bid as follows:

Signed IFB Cover Page(s)
 Table of Contents
 Transmittal Letter/Executive Summary
 Exhibit A – Pricing Pages
 State of Missouri, Terms and Conditions

Business Compliance: The bidder must be in compliance with the laws regarding conducting business in the State of Missouri. The bidder certifies by signing the signature page of this original document and any amendment signature page(s) that he/she is presently in compliance with such laws. The bidder shall provide documentation of compliance upon request by the MSOS. The compliance to conduct business in the state shall include but may not be limited to:

Registration of business name (if applicable)
Certificate of authority to transact business/certificate of good standing (if applicable)
Taxes (e.g., city/county/state/federal)
State and local certifications (e.g., professions/occupations/activities)
Licenses and permits (e.g., city/county license, sales permits)
Insurance (e.g., worker's compensation/unemployment compensation)

6 Bid Evaluation/Contract Award:

- 6.1 Cost Evaluation: The evaluation shall cover the original contract period plus the renewal periods. A quantity of one (1) reel and total cost of repairing the initial 187 reels will be used in the cost evaluation.
- 6.2 In the cost evaluation, a unit price conversion will be done in order to fairly evaluate bid prices. However, for any resulting contract, the unit of measure proposed will be the unit of measure awarded. Bidders are encouraged to contact the Buyer prior to submission of their bid to discuss anticipated unit modifications.
 - a. The bidder is cautioned that the MSOS reserves the right to clarify the unit of measure modification, and further to disqualify the bid for that line item if the unit of measure modification is not deemed appropriate or in the best interests of the MSOS.

7 STANDARD CONTRACTUAL LANGUAGE**7.1 Contract Price**

All prices shall be as indicated on the Pricing Page. The MSOS shall not be liable for any other additional costs including but not limited to taxes, shipping charges, insurance, interest penalties, termination payments, attorney fees, liquidated damages, etc.

7.2 Contract Document

7.2.1 The MSOS reserves the right to clarify any contract term in writing with the concurrence of the contractor prior to the award of the contract, and such written clarification shall govern in case of the conflict with the applicable requirement stated in the IFB or the contractor's response. In all other matters not affected by the written clarification, if any, the IFB shall govern. The contractor is cautioned that his/her response shall be subject to acceptance without further clarification.

7.2.2 To the extent that a provision is contrary to the Constitution or laws of this state or of the United States, the provision shall be void and unenforceable. However, the remainder of the contract shall be in full force and effect.

7.3 Right to Terminate Contract

The MSOS reserves the right to terminate the contract without cause by giving written notice to the contractor at least thirty (30) calendar days prior to the effective date of such termination. The contractor shall be entitled to receive just and equitable compensation for that work completed pursuant to the contract prior to that effective date of termination.

7.4 Liabilities

7.4.1 The contractor agrees that the MSOS shall not be liable for any damages or costs or injury incurred by the contractor or his/her employees arising out of the ownership, selection, possession, leasing, rental, operation, control, use, maintenance, delivery, return and/or installation of equipment by the contractor, except as otherwise provided in the contract.

7.4.2 The contractor shall be responsible for any and all injury or damage as a result of the contractor's negligence involving any equipment or service provided under the terms of this contract. In addition to the liability imposed upon the contractor on account of personal injury (including death), or property damage suffered as a result of the contractor's negligence, the contractor assumes the obligation to save the MSOS, including its agents, employees, and assigns, from every expense (including attorney fees), liability or payment arising out of such negligent act.

The contractor also agrees to hold MSOS, including its agents, employees, and assigns, harmless for any negligent act or omission by the subcontractor or other person employed by or under the supervision of the contractor under the terms of the contract and indemnifies the MSOS of all costs, expenses (including attorney fees), damages and payment.

7.5 Insurance

The contractor shall understand and agree that MSOS cannot save and hold harmless and/or indemnify the contractor or its employees against any liability incurred or arising as a result of any activity set out in the contract or any activity of the contractor's employees related to the contractor's performance under the contract. The contractor shall acquire and maintain adequate insurance in the form(s) and amount(s) sufficient to protect the MSOS, its employees, and the general public against any such loss, injury, damage, and/or expense.

7.6 Terms and Conditions

The contractor agrees to the attached State of Missouri Terms and Conditions, which, by this reference is incorporated herein.

EXHIBIT A

PRICING PAGES

A.1 PRICING

- 1) The bidder must state firm, fixed prices for the service the bidder is proposing. All prices stated herein must be firm, fixed throughout the contract period stated on page 1.
- 2) "U/M" in the chart below specifies the "unit of measure", each reel, upon which pricing is based.

| LINE ITEM | DESCRIPTION | U/M | UNIT PRICE PER REEL REPAIRED |
|--------------|---|-----|---------------------------------------|
| 001 | C/S Code: 2262 Repair of microfilm including but not limited to: 16mm x 100'-thick film PRICE PER REEL REPAIRED | | _____ |
| 002 | C/S Code: 2262 Repair of microfilm including but not limited to: 16mm x 215'-thin film PRICE PER REEL REPAIRED | | _____ |
| 003 | C/S Code: 2262 Repair of microfilm including but not limited to: 35mm x 100'-thick film PRICE PER REEL REPAIRED | | _____ |

Renewal Options for All Pricing

The Office of the Secretary of State shall have the sole option to renew the contract for two (s) additional one-year periods, or any portion thereof.

The offeror must indicate below the maximum allowable percentage of price increase or **guaranteed** *minimum percentage of price decrease applicable* to the renewal option period. The state percentage shall apply to each itemized component on the applicable pricing page(s). **If a percentage is not quoted (i.e. left blank), the Office of the Secretary of State shall have the right to execute the option at the same price(s) quoted for the original contract period.** Statements such as "a percentage of the then current price" or "consumer price index" are NOT ACCEPTABLE.

All increases or decreases shall be calculated against the **ORIGINAL** contract price, **NOT** *against the previous year's price*. A CUMULATIVE CALCULATION SHALL NOT BE UTILIZED.

The percentages indicated below will be used in the cost evaluation to determine the potential maximum financial burden to the Office of the Secretary of State.

NOTICE: DO NOT COMPLETE BOTH A MAXIMUM INCREASE AND A MINIMUM DECREASE FOR THE SAME RENEWAL PERIOD.

| | <u>Maximum Increase</u> | OR | <u>Minimum Decrease</u> |
|-----------------------|--------------------------------|-----------|--------------------------------|
| First Renewal Period | original price + ____% | OR | original price - ____% |
| Second Renewal Period | original price + ____% | OR | original price - ____% |

**STATE OF MISSOURI
DIVISION OF PURCHASING AND MATERIALS MANAGEMENT
TERMS AND CONDITIONS -- INVITATION FOR BID**

1. TERMINOLOGY/DEFINITIONS

Whenever the following words and expressions appear in an Invitation for Bid (IFB) document or any amendment thereto, the definition or meaning described below shall apply.

- a. **Agency and/or State Agency** means the statutory unit of state government in the State of Missouri for which the equipment, supplies, and/or services are being purchased by the **Division of Purchasing and Materials Management (DPMM)**. The agency is also responsible for payment.
- b. **Amendment** means a written, official modification to an IFB or to a contract.
- c. **Attachment** applies to all forms which are included with an IFB to incorporate any informational data or requirements related to the performance requirements and/or specifications.
- d. **Bid Opening Date and Time** and similar expressions mean the exact deadline required by the IFB for the receipt of sealed bids.
- e. **Bidder** means the person or organization that responds to an IFB by submitting a bid with prices to provide the equipment, supplies, and/or services as required in the IFB document.
- f. **Buyer** means the procurement staff member of the DPMM. The **Contact Person** as referenced herein is usually the Buyer.
- g. **Contract** means a legal and binding agreement between two or more competent parties, for a consideration for the procurement of equipment, supplies, and/or services.
- h. **Contractor** means a person or organization who is a successful bidder as a result of an IFB and who enters into a contract.
- i. **Exhibit** applies to forms which are included with an IFB for the bidder to complete and submit with the sealed bid prior to the specified opening date and time.
- j. **Invitation for Bid (IFB)** means the solicitation document issued by the DPMM to potential bidders for the purchase of equipment, supplies, and/or services as described in the document. The definition includes these Terms and Conditions as well as all Pricing Pages, Exhibits, Attachments, and Amendments thereto.
- k. **May** means that a certain feature, component, or action is permissible, but not required.
- l. **Must** means that a certain feature, component, or action is a mandatory condition. Failure to provide or comply will result in a bid being considered non-responsive.
- m. **Pricing Page(s)** applies to the form(s) on which the bidder must state the price(s) applicable for the equipment, supplies, and/or services required in the IFB. The pricing pages must be completed and submitted by the bidder with the sealed bid prior to the specified bid opening date and time.
- n. **RSMn (Revised Statutes of Missouri)** refers to the body of laws enacted by the Legislature which govern the operations of all agencies of the State of Missouri. Chapter 34 of the statutes is the primary chapter governing the operations of DPMM.
- o. **Shall** has the same meaning as the word **must**.
- p. **Should** means that a certain feature, component and/or action is desirable but not mandatory.

2. APPLICABLE LAWS AND REGULATIONS

- a. The contract shall be construed according to the laws of the State of Missouri. The contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract to the extent that the same may be applicable.
- b. To the extent that a provision of the contract is contrary to the Constitution or laws of the State of Missouri or of the United States, the provisions shall be void and unenforceable. However, the balance of the contract shall remain in force between the parties unless terminated by consent of both the contractor and the DPMM.
- c. The contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations.
- d. The contractor must timely file and pay all Missouri sales, withholding, corporate and any other required Missouri tax returns and taxes, including interest and additions to tax.
- e. The exclusive venue for any legal proceeding relating to or arising out of the IFB or resulting contract shall be in the Circuit Court of Cole County, Missouri.
- f. The contractor shall only employ personnel authorized to work in the United States in accordance with applicable federal and state laws and Executive Order 07-13 for work performed in the United States.

3. OPEN COMPETITION/INVITATION FOR BID DOCUMENT

- a. It shall be the bidder's responsibility to ask questions, request changes or clarification, or otherwise advise the DPMM if any language, specifications or requirements of an IFB appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the IFB to a single source. Any and all communication from bidders regarding specifications, requirements, competitive bid process, etc., must be directed to the buyer from the DPMM, unless the IFB specifically refers the bidder to another contact. Such e-mail, fax, or phone communication should be received at least ten calendar days prior to the official bid opening date.
- b. Every attempt shall be made to ensure that the bidder receives an adequate and prompt response. However, in order to maintain a fair and equitable bid process, all bidders will be advised, via the issuance of an amendment to the IFB, of any relevant or pertinent information related to the procurement. Therefore, bidders are advised that unless specified elsewhere in the IFB, any questions received less than ten calendar days prior to the IFB opening date may not be answered.

- c. Bidders are cautioned that the only official position of the State of Missouri is that which is issued by the DPMM in the IFB or an amendment thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response or statement.
- d. The DPMM monitors all procurement activities to detect any possibility of deliberate restraint of competition, collusion among bidders, price-fixing by bidders, or any other anticompetitive conduct by bidders which appears to violate state and federal antitrust laws. Any suspected violation shall be referred to the Missouri Attorney General's Office for appropriate action.
- e. The IFB is available for viewing and downloading on the state's On-Line Bidding/Vendor Registration System website. Registered bidders are electronically notified of the bid opportunity based on the information maintained in the State of Missouri's vendor database. If a registered bidder's e-mail address is incorrect, the bidder must update the e-mail address themselves on the state's On-Line Bidding/Vendor Registration System website.
- f. The DPMM reserves the right to officially amend or cancel an IFB after issuance. It shall be the sole responsibility of the bidder to monitor the State of Missouri On-Line Bidding/Vendor Registration System website at: <https://www.moolb.mo.gov> to obtain a copy of the amendment(s). Registered bidders who received e-mail notification of the bid opportunity when the IFB was established and registered bidders who have responded to the IFB on-line prior to an amendment being issued will receive e-mail notification of the amendment(s). Registered bidders who received e-mail notification of the bid opportunity when the IFB was established and registered bidders who have responded to the bid on-line prior to a cancellation being issued will receive e-mail notification of a cancellation issued prior to the exact closing time and date specified in the IFB.

4. PREPARATION OF BIDS

- a. Bidders must examine the entire IFB carefully. Failure to do so shall be at bidder's risk.
- b. Unless otherwise specifically stated in the IFB, all specifications and requirements constitute minimum requirements. All bids must meet or exceed the stated specifications and requirements.
- c. Unless otherwise specifically stated in the IFB, any manufacturer names, trade names, brand names, information and/or catalog numbers listed in a specification and/or requirement are for informational purposes only and are not intended to limit competition. The bidder may offer any brand which meets or exceeds the specification for any item, but must state the manufacturer's name and model number for any such brands in the bid. In addition, the bidder shall explain, in detail, (1) the reasons why the proposed equivalent meets or exceeds the specifications and/or requirements and (2) why the proposed equivalent should not be considered an exception thereto. Bids which do not comply with the requirements and specifications are subject to rejection without clarification.
- d. Bids lacking any indication of intent to bid an alternate brand or to take an exception shall be received and considered in complete compliance with the specifications and requirements as listed in the IFB.
- e. In the event that the bidder is an agency of state government or other such political subdivision which is prohibited by law or court decision from complying with certain provisions of an IFB, such a bidder may submit a bid which contains a list of statutory limitations and identification of those prohibitive clauses. The bidder should include a complete list of statutory references and citations for each provision of the IFB, which is affected by this paragraph. The statutory limitations and prohibitive clauses may (1) be requested to be clarified in writing by DPMM or (2) be accepted without further clarification if the statutory limitations and prohibitive clauses are deemed acceptable by DPMM. If DPMM determines clarification of the statutory limitations and prohibitive clauses is necessary, the clarification will be conducted in order to agree to language that reflects the intent and compliance of such law and/or court order and the IFB.
- f. All equipment and supplies offered in a bid must be new, of current production, and available for marketing by the manufacturer unless the IFB clearly specifies that used, reconditioned, or remanufactured equipment and supplies may be offered.
- g. Prices shall include all packing, handling and shipping charges FOB destination, freight prepaid and allowed unless otherwise specified in the IFB.
- h. Bids, including all pricing therein, shall remain valid for 90 days from bid opening unless otherwise indicated. If the bid is accepted, the entire bid, including all prices, shall be firm for the specified contract period.
- i. Any foreign bidder not having an Employer Identification Number assigned by the United States Internal Revenue Service (IRS) must submit a completed IRS Form W-8 prior to or with the submission of their bid in order to be considered for award.

5. SUBMISSION OF BIDS

- a. Registered bidders may submit bids electronically as permitted by the IFB through the State of Missouri's On-Line Bidding/Vendor Registration System website or hard copy delivered to the DPMM office. Bidders that have not registered on the On-Line Bidding/Vendor Registration System website may submit bids hard copy delivered to the DPMM office. Delivered bids must be sealed in an envelope or container, and received in the DPMM office located at 301 West High St, Rm 630 in Jefferson City, MO no later than the exact opening time and date specified in the IFB. All bids must (1) be submitted by a duly authorized representative of the bidder's organization, (2) contain all information required by the IFB, and (3) be priced as required. Hard copy bids may be mailed to the DPMM post office box address. However, it shall be the responsibility of the bidder to ensure their bid is in the DPMM office (address listed above) no later than the exact opening time and date specified in the IFB.
- b. The sealed envelope or container containing a bid should be clearly marked on the outside with (1) the official IFB number and (2) the official opening date and time. Different bids should not be placed in the same envelope, although copies of the same bid may be placed in the same envelope.
- c. A bid submitted electronically by a registered bidder may be modified on-line prior to the official opening date and time. A bid which has been delivered to the DPMM office may be modified by signed, written notice which has been received by the DPMM prior to the official opening date and time specified. A bid may also be modified in person by the bidder or its authorized representative, provided proper identification is presented before the official opening date and time. Telephone or telegraphic requests to modify a bid shall not be honored.
- d. A bid submitted electronically by a registered bidder may be canceled on-line prior to the official opening date and time. A bid which has been delivered to the DPMM office may only be withdrawn by a signed, written document on company letterhead transmitted via mail, e-mail, or facsimile which has been received by the DPMM prior to the official opening date and time specified. A bid may also be withdrawn

in person by the bidder or its authorized representative, provided proper identification is presented before the official opening date and time. Telephone or telegraphic requests to withdraw a bid shall not be honored.

- e. A bid may also be withdrawn after the bid opening through submission of a written request by an authorized representative of the bidder. Justification of withdrawal decision may include a significant error or exposure of bid information that may cause irreparable harm to the bidder.
- f. When submitting a bid electronically, the registered bidder indicates acceptance of all IFB terms and conditions by clicking on the "Submit" button on the Electronic Bid Response Entry form. Bidders delivering a hard copy bid to DPMM must sign and return the IFB cover page or, if applicable, the cover page of the last amendment thereto in order to constitute acceptance by the bidder of all IFB terms and conditions. Failure to do so may result in rejection of the bid unless the bidder's full compliance with those documents is indicated elsewhere within the bidder's response.
- g. Faxed bids shall not be accepted. However, faxed and e-mail no-bid notifications shall be accepted.

6. BID OPENING

- a. Bid openings are public on the opening date and at the opening time specified on the IFB document. Names, locations, and prices of respondents shall be read at the bid opening. All vendors may view the names and prices of the respondents on the state's On-Line Bidding/Vendor Registration System website after the official opening date and time. The DPMM will not provide prices or other bid information via the telephone.
- b. Bids which are not received in the DPMM office prior to the official opening date and time shall be considered late, regardless of the degree of lateness, and normally will not be opened. Late bids may only be opened under extraordinary circumstances in accordance with 1 CSR 40-1.050.

7. PREFERENCES

- a. In the evaluation of bids, preferences shall be applied in accordance with chapter 34, RSMo, other applicable Missouri statutes, and applicable Executive Orders. Contractors should apply the same preferences in selecting subcontractors.
- b. By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, mined, processed or grown within the State of Missouri and to all firms, corporations or individuals doing business as Missouri firms, corporations or individuals. Such preference shall be given when quality is equal or better and delivered price is the same or less.
- c. In accordance with Executive Order 05-30, contractors are encouraged to utilize certified minority and women-owned businesses in selecting subcontractors.

8. EVALUATION/AWARD

- a. Any clerical error, apparent on its face, may be corrected by the buyer before contract award. Upon discovering an apparent clerical error, the buyer shall contact the bidder and request clarification of the intended bid. The correction shall be incorporated in the notice of award. Examples of apparent clerical errors are: 1) misplacement of a decimal point; and 2) obvious mistake in designation of unit.
- b. Any pricing information submitted by a bidder shall be subject to evaluation if deemed by the DPMM to be in the best interest of the State of Missouri.
- c. The bidder is encouraged to propose price discounts for prompt payment or propose other price discounts that would benefit the State of Missouri. However, unless otherwise specified in the IFB, pricing shall be evaluated at the maximum potential financial liability to the State of Missouri.
- d. Awards shall be made to the bidder whose bid (1) complies with all mandatory specifications and requirements of the IFB and (2) is the lowest and best bid, considering price, responsibility of the bidder, and all other evaluation criteria specified in the IFB and (3) complies with chapter 34, RSMo, other applicable Missouri statutes, and all applicable Executive Orders.
- e. In the event all bidders fail to meet the same mandatory requirement in an IFB, DPMM reserves the right, at its sole discretion, to waive that requirement for all bidders and to proceed with the evaluation. In addition, the DPMM reserves the right to waive any minor irregularity or technicality found in any individual bid.
- f. The DPMM reserves the right to reject any and all bids. When all bids are non-responsive or otherwise unacceptable and circumstances do not permit a rebid, DPMM may negotiate for the required supplies.
- g. When evaluating a bid, the State of Missouri reserves the right to consider relevant information and fact, whether gained from a bid, from a bidder, from bidder's references, or from any other source.
- h. Any information submitted with the bid, regardless of the format or placement of such information, may be considered in making decisions related to the responsiveness and merit of a bid and the award of a contract.
- i. Any award of a contract shall be made by notification from the DPMM to the successful bidder. The DPMM reserves the right to make awards by item, group of items, or an all or none basis. The grouping of items awarded shall be determined by DPMM based upon factors such as item similarity, location, administrative efficiency, or other considerations in the best interest of the State of Missouri.
- j. All bids and associated documentation which were submitted on or before the official opening date and time will be considered open records pursuant to section 610.021, RSMo, following the official opening of bids.
- k. The DPMM posts all bid results on the On-line Bidding/Vendor Registration System website for all vendors to view for a reasonable period after bid award. The DPMM maintains images of all bid file material for review. Bidders who include an e-mail address with their bid will be notified of the award results via e-mail.
- l. The DPMM reserves the right to request clarification of any portion of the bidder's response in order to verify the intent of the bidder. The bidder is cautioned, however, that its response may be subject to acceptance or rejection without further clarification.
- m. Any bid award protest must be received within ten (10) business days after the date of award in accordance with the requirements of 1 CSR 40-1.050 (9).
- n. The final determination of contract award(s) shall be made by DPMM.

9. CONTRACT/PURCHASE ORDER

- a. By submitting a bid, the bidder agrees to furnish any and all equipment, supplies and/or services specified in the IFB, at the prices quoted, pursuant to all requirements and specifications contained therein.
- b. A binding contract shall consist of: (1) the IFB and any amendments thereto, (2) the contractor's response (bid) to the IFB, (3) clarification of the bid, if any, and (4) DPMM's acceptance of the response (bid) by "notice of award" or by "purchase order." All Exhibits and Attachments included in the IFB shall be incorporated into the contract by reference.
- c. A notice of award issued by the State of Missouri does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services for the State of Missouri, the contractor must receive a properly authorized purchase order or other form of authorization given to the contractor at the discretion of the state agency.
- d. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein. Any change to the contract, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the contractor and the DPMM or by a modified purchase order prior to the effective date of such modification. The contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification to the contract.

10. INVOICING AND PAYMENT

- a. The State of Missouri does not pay state or federal taxes unless otherwise required under law or regulation.
- b. The statewide financial management system has been designed to capture certain receipt and payment information. For each purchase order received, an invoice must be submitted that references the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.
- c. The contractor shall not transfer any interest in the contract, whether by assignment or otherwise, without the prior written consent of the DPMM.
- d. Payment for all equipment, supplies, and/or services required herein shall be made in arrears unless otherwise indicated in the IFB.
- e. The State of Missouri assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any unauthorized quantity is subject to the state's rejection and shall be returned at the contractor's expense.
- f. All invoices for equipment, supplies, and/or services purchased by the State of Missouri shall be subject to late payment charges as provided in section 34.055, RSMo.
- g. The State of Missouri reserves the right to purchase goods and services using the state purchasing card.

11. DELIVERY

Time is of the essence. Deliveries of equipment, supplies, and/or services must be made no later than the time stated in the contract or within a reasonable period of time, if a specific time is not stated.

12. INSPECTION AND ACCEPTANCE

- a. No equipment, supplies, and/or services received by an agency of the state pursuant to a contract shall be deemed accepted until the agency has had reasonable opportunity to inspect said equipment, supplies, and/or services.
- b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.
- c. The State of Missouri reserves the right to return any such rejected shipment at the contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.
- d. The State of Missouri's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the state may have.

13. WARRANTY

- a. The contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by the DPMM, (2) be fit and sufficient for the purpose expressed in the IFB, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.
- b. Such warranty shall survive delivery and shall not be deemed waived either by reason of the state's acceptance of or payment for said equipment, supplies, and/or services.

14. CONFLICT OF INTEREST

- a. Elected or appointed officials or employees of the State of Missouri or any political subdivision thereof, serving in an executive or administrative capacity, must comply with sections 105.452 and 105.454, RSMo, regarding conflict of interest.
- b. The contractor hereby covenants that at the time of the submission of the bid the contractor has no other contractual relationships which would create any actual or perceived conflict of interest. The contractor further agrees that during the term of the contract neither the contractor nor any of its employees shall acquire any other contractual relationships which create such a conflict.

15. REMEDIES AND RIGHTS

- a. No provision in the contract shall be construed, expressly or implied, as a waiver by the State of Missouri of any existing or future right and/or remedy available by law in the event of any claim by the State of Missouri of the contractor's default or breach of contract.
- b. The contractor agrees and understands that the contract shall constitute an assignment by the contractor to the State of Missouri of all rights, title and interest in and to all causes of action that the contractor may have under the antitrust laws of the United States or the State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or procured by the contractor in the fulfillment of the contract with the State of Missouri.

16. CANCELLATION OF CONTRACT

- a. In the event of material breach of the contractual obligations by the contractor, the DPMM may cancel the contract. At its sole discretion, the DPMM may give the contractor an opportunity to cure the breach or to explain how the breach will be cured. The actual cure must be completed within no more than 10 working days from notification, or at a minimum the contractor must provide DPMM within 10 working days from notification a written plan detailing how the contractor intends to cure the breach.
- b. If the contractor fails to cure the breach or if circumstances demand immediate action, the DPMM will issue a notice of cancellation terminating the contract immediately. If it is determined the DPMM improperly cancelled the contract, such cancellation shall be deemed a termination for convenience in accordance with the contract.
- c. If the DPMM cancels the contract for breach, the DPMM reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as the DPMM deems appropriate and charge the contractor for any additional costs incurred thereby.
- d. The contractor understands and agrees that funds required to fund the contract must be appropriated by the General Assembly of the State of Missouri for each fiscal year included within the contract period. The contract shall not be binding upon the state for any period in which funds have not been appropriated, and the state shall not be liable for any costs associated with termination caused by lack of appropriations.

17. COMMUNICATIONS AND NOTICES

Any notice to the bidder/contractor shall be deemed sufficient when deposited in the United States mail postage prepaid, transmitted by facsimile, transmitted by e-mail or hand-carried and presented to an authorized employee of the bidder/contractor.

18. BANKRUPTCY OR INSOLVENCY

- a. Upon filing for any bankruptcy or insolvency proceeding by or against the contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, the contractor must notify the DPMM immediately.
- b. Upon learning of any such actions, the DPMM reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the contractor responsible for damages.

19. INVENTIONS, PATENTS AND COPYRIGHTS

The contractor shall defend, protect, and hold harmless the State of Missouri, its officers, agents, and employees against all suits of law or in equity resulting from patent and copyright infringement concerning the contractor's performance or products produced under the terms of the contract.

20. NON-DISCRIMINATION AND AFFIRMATIVE ACTION

In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall agree not to discriminate against recipients of services or employees or applicants for employment on the basis of race, color, religion, national origin, sex, age, disability, or veteran status unless otherwise provided by law. If the contractor or subcontractor employs at least 50 persons, they shall have and maintain an affirmative action program which shall include:

- a. A written policy statement committing the organization to affirmative action and assigning management responsibilities and procedures for evaluation and dissemination;
- b. The identification of a person designated to handle affirmative action;
- c. The establishment of non-discriminatory selection standards, objective measures to analyze recruitment, an upward mobility system, a wage and salary structure, and standards applicable to layoff, recall, discharge, demotion, and discipline;
- d. The exclusion of discrimination from all collective bargaining agreements; and
- e. Performance of an internal audit of the reporting system to monitor execution and to provide for future planning.

If discrimination by a contractor is found to exist, the DPMM shall take appropriate enforcement action which may include, but not necessarily be limited to, cancellation of the contract, suspension, or debarment by the DPMM until corrective action by the contractor is made and ensured, and referral to the Attorney General's Office, whichever enforcement action may be deemed most appropriate.

21. AMERICANS WITH DISABILITIES ACT

In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall comply with all applicable requirements and provisions of the Americans with Disabilities Act (ADA).

22. FILING AND PAYMENT OF TAXES

The commissioner of administration and other agencies to which the state purchasing law applies shall not contract for goods or services with a vendor if the vendor or an affiliate of the vendor makes sales at retail of tangible personal property or for the purpose of storage, use, or consumption in this state but fails to collect and properly pay the tax as provided in chapter 144, RSMo. For the purposes of this section, "affiliate of the vendor" shall mean any person or entity that is controlled by or is under common control with the vendor, whether through stock ownership or otherwise. Therefore bidder's failure to maintain compliance with chapter 144, RSMo, may eliminate their bid from consideration for award.

23. TITLES

Titles of paragraphs used herein are for the purpose of facilitating reference only and shall not be construed to infer a contractual construction of language.

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